



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

SEP 27 2005

REPLY TO THE ATTENTION OF

(AE-17J)

CERTIFIED MAIL

RETURN RECEIPT REQUESTED

Gary Hoopes, President
GNW Aluminum
1356 Harrisburg Road
P.O. Box 2418
Alliance, Ohio 44601

Re: In the Matter of GNW Aluminum, Inc.

CAA Docket No.

CAA-05- 2005 0053

Dear Mr. Hoopes:

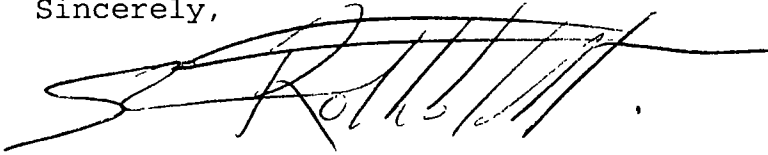
I have enclosed a complaint filed against GNW Aluminum, Inc. (GNW Aluminum) under Section 113(d) of the Clean Air Act (Act), 42 U.S.C. § 7413(d). The complaint alleges GNW Aluminum failed to conduct a performance test for dioxin and furan on its sweat furnace within 90 days after initial startup of the furnace, or by May 30, 2003, and is therefore in violation of 40 C.F.R. 63.1511; failed to develop and implement an approved written Startup, Shutdown, and Malfunction (SS&M) Plan upon startup of the furnace in February 2003, and is therefore in violation of 40 C.F.R. § 63.1516(a); failed to submit in a timely manner an operation, maintenance, and monitoring plan within 90 days after initial startup of the furnace, or by May 31, 2003, and is therefore in violation of 40 C.F.R. § 63.1510(b); and failed to submit its first Excess Emission/Summary Report within 60 days after the end of the initial 6-month period of operation of the sweat furnace or by November 30, 2003, and is therefore in violation of 40 C.F.R. § 63.1516(b).

As provided in the complaint, if you would like to request a hearing, you must do so in your answer to the complaint. Please note that if you do not file an answer with the Regional Hearing Clerk within 30 days of your receipt of this complaint, a default order may be issued and the proposed civil penalty will become due 30 days later.

In addition, whether or not you request a hearing, you may request an informal settlement conference. If you wish to request a conference, or if you have any questions about this

matter, please contact, Joseph Williams, Associate Regional Counsel (C-14J), 77 West Jackson Boulevard, Chicago, Illinois 60604, at (312) 886-6631.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Rothblatt", with a long horizontal line extending to the right.

Stephen Rothblatt, Director
Air and Radiation Division

Enclosure

cc: Robert Hodanbosi, Chief
Division of Air Pollution Control
Ohio Environmental Protection Agency

Dan Aleman, Administrator
Air Pollution Control Division
Canton City Health Department

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:

GNW Aluminum, Inc.
1356 Harrisburg Road
P.O. Box 2418
Alliance, Ohio 44601
(Respondent)

) Docket No. CAA-05- 2005 0053
)
) Proceeding to Assess a
) Civil Penalty under
) Section 113(d) of the
) Clean Air Act,
) 42 U.S.C. § 7413(d)
)

Administrative Complaint

1. This is an administrative proceeding to assess a civil penalty under Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d).
2. The Complainant is, by lawful delegation, the Director of the Air and Radiation Division, United States Environmental Protection Agency (U.S. EPA), Region 5, Chicago, Illinois.
3. The Respondent is GNW Aluminum, Inc. (GNW Aluminum), a corporation doing business in Alliance, Ohio.

Statutory and Regulatory Background

4. Under Section 112 of the Act, the Administrator of U.S. EPA (the Administrator) promulgated the National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production at 40 C.F.R. Part 63, Subpart RRR, (NESHAP).
5. The NESHAP at 40 C.F.R. Part 63, Subpart RRR, applies to owners and operators of secondary aluminum production facilities that have contained at that facility (a) a new affected source that (b) emits Dioxin and Furan, (c) that is also an area source, that (d) was constructed after February

11, 1999.

6. The NESHAP, at 40 C.F.R. § 63.1501(b), requires specifically that the owner or operator of a new affected source that commences construction or reconstruction after February 11, 1999, must comply with the NESHAP requirements by March 24, 2000, or upon startup whichever is later.
7. 40 C.F.R. Part 63, Subpart RRR specifically requires the owner and operator of these affected sources: to conduct a performance test for Dioxin/Furan on its affected sources within 90 days after initial startup of the source; to develop and implement an approved written Startup, Shutdown, and Malfunction (SS&M) Plan by startup; to submit an operation, maintenance, and monitoring plan by startup, to submit its first Excess Emission/Summary Report within 60 days after the end of the initial 6-month period of operation of the affected source.
8. The Administrator of the U.S. EPA may assess a civil penalty of up to \$27,500 per day of violation, up to a total of \$220,000, for each violation that occurred between January 31, 1997, and March 15, 2004, and may assess a civil penalty of up to \$32,500 per day of violation, up to a total of \$270,000, for violations that occurred on and after March 15, 2004, under Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19, as amended at 69 Fed. Reg. 7121 (February 13, 2004).
9. Section 113(d)(1) of the Act limits the Administrator's authority to matters where the first alleged date of violation occurred no more than 12 months prior to the

initiation of an administrative action, except where the Administrator and Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

10. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that an administrative penalty action is appropriate for the period of violations alleged in this complaint.

General Allegations

11. GNW Aluminum owns and operates a secondary aluminum production facility (Alliance Facility) at 1356 Harrisburg Road, Alliance, Ohio as that term is defined at 40 C.F.R. § 63.1503.
12. 40 C.F.R. § 63.1503, defines a secondary aluminum production facility as any establishment using clean charge, aluminum scrap, or dross from aluminum production as the raw material and performing one or more of the following processes: scrap shredding, scrap drying/delacquering/ decoating, thermal chip drying, furnace operations (i.e., melting, holding, sweating, refining, fluxing, or alloying), recovery of aluminum from dross, in-line fluxing, or dross cooling.
13. Respondent owns and operates a sweat furnace at the Alliance Facility's used exclusively to reclaim aluminum from scrap that contains substantial quantities of iron by using heat to separate the low melting point aluminum from the scrap while the higher melting point iron remains in

solid form.

14. The Alliance Facility is therefore a Secondary aluminum production facility as that term is defined at 40 C.F.R. 63.1503.
15. Respondent's sweat furnace was installed during September 2002, well after the Administrator first proposed a relevant emission standard applicable for this Part, and is therefore a "new source" as that term is defined at 40 C.F.R. § 63.2. The sweat furnace also began startup during February 2003.
16. Respondent's sweat furnace is also an "affected source" because it is a listed affected source at 40 C.F.R. § 63.1500(c)(3).
17. Respondent's sweat furnace emitted amongst other pollutants dioxin and furan that are now controlled by an afterburner.
18. Respondent's Alliance Facility also meets the definition of "area source" as it is not a major source of Hazardous Air Pollutants pursuant to 40 C.F.R. § 63.2.
19. The sweat furnace is subject to the requirements of 40 C.F.R. Part 63, Subpart RRR and these provisions became applicable by March 24, 2000 or upon startup whichever is later. See 40 C.F.R. § 63.1501(c).
20. U.S. EPA issued an Information Request letter to the GNW Aluminum on April 29, 2004, pursuant to Section 114 of the Act.
21. Based on the initial response received from GNW Aluminum on June 8, 2004 and subsequent responses, U.S. EPA determined that the Respondent was in violation of the Act.

22. U.S. EPA subsequently issued a Finding of Violation ("FOV") to GNW Aluminum on April 22, 2005.
23. On June 1, 2005, U.S. EPA and the Respondent held a conference to discuss the FOV.

Count I

24. Complainant incorporates paragraphs 1 through 23 of this complaint, as if set forth in this paragraph in full.
25. Records submitted by the Respondent show that the Respondent failed to conduct a performance test for dioxin and furan on its sweat furnace within 90 days after initial startup of the furnace, or by May 31, 2003, and is therefore in violation of 40 C.F.R. § 63.1511 and the Act.

Count II

26. Complainant incorporates paragraphs 1 through 23 of this complaint, as if set forth in this paragraph in full.
27. Records submitted by the Respondent show that the Respondent failed to develop and implement an approved written Startup, Shutdown, and Malfunction (SS&M) Plan upon startup of the furnace in February 2003, and is therefore in violation of 40 C.F.R. § 63.1516(a) and the Act.

Count III

28. Complainant incorporates paragraphs 1 through 23 of this Complaint, as if set forth in this paragraph in full.
29. Records submitted by the Respondent show that the Respondent failed to submit in a timely manner an operation, maintenance, and monitoring plan within 90 days after initial startup of the furnace, or by May 31, 2003 and is therefore in violation of 40 C.F.R. § 63.1510(b) and the Act.

Count IV

30. Complainant incorporates paragraphs 1 through 23 of this Complaint, as if set forth in this paragraph in full.
31. The Respondent failed to submit its first Excess Emission/Summary Report within 60 days after the end of the initial 6-month period of operation of the sweat furnace or by November 30, 2003 and is therefore in violation of 40 C.F.R. § 63.1516(b) and the Act.

Proposed Civil Penalty

32. The Administrator must consider the factors specified in Section 113(e) of the Act when assessing an administrative penalty under Section 113(d). 42 U.S.C. § 7413(e).
33. Based upon an evaluation of the facts alleged in this complaint and the factors in Section 113(e) of the Act, Complainant proposes that the Administrator assess a civil penalty against Respondent in the amount of \$104,898. Complainant evaluated the facts and circumstances of this case with specific reference to U.S. EPA's Clean Air Act, Stationary Source Penalty Policy dated October 25, 1991 (penalty policy). Enclosed with this complaint is a copy of the penalty policy.
34. Complainant developed the proposed penalty based on the best information available to Complainant at this time. Complainant may adjust the proposed penalty if the Respondent establishes bona fide issues of ability to pay or other defenses relevant to the penalty's appropriateness.

Rules Governing This Proceeding

35. The "Consolidated Rules of Practice Governing the

Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits" (the Consolidated Rules) at 40 C.F.R. Part 22 govern this proceeding to assess a civil penalty. Enclosed with the Complaint served on Respondent is a copy of the Consolidated Rules.

Filing and Service of Documents

36. Respondent must file with the Regional Hearing Clerk the original and one copy of each document Respondent intends as part of the record in this proceeding. The Regional Hearing Clerk's address is:

Regional Hearing Clerk (R-19J)
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

37. Respondent must serve a copy of each document filed in this proceeding on each party pursuant to Section 22.5 of the Consolidated Rules. Complainant has authorized Joseph Williams to receive any Answer and subsequent legal documents that Respondent serves in this proceeding. You may telephone Joseph Williams at (312) 886-6631. Joseph Williams' address is:

Joseph Williams (C-14J)
Associate Regional Counsel
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

Penalty Payment

38. Respondent may resolve this proceeding at any time by paying the proposed penalty by certified or cashier's check payable to "Treasurer, the United States of America", and by

delivering the check to:

U.S. Environmental Protection Agency
Region 5
P.O. Box 70753
Chicago, Illinois 60673

Respondent must include the case name and docket number on the check and in the letter transmitting the check.

Respondent simultaneously must send copies of the check and transmittal letter to Joseph Williams and to:

Attn: Compliance Tracker, (AE-17J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

Opportunity to Request a Hearing

39. The Administrator must provide an opportunity to request a hearing to any person against whom the Administrator proposes to assess a penalty under Section 113(d)(2) of the Act, 42 U.S.C. § 7413(d)(2). Respondent has the right to request a hearing on any material fact alleged in the Complaint, on the appropriateness of the proposed penalty, or both. To request a hearing, Respondent must specifically make the request in its Answer, as discussed in paragraphs 41 through 46 below.

Answer

40. Respondent must file a written Answer to this Complaint if Respondent contests any material fact of the Complaint, contends that the proposed penalty is inappropriate, or contends that it is entitled to judgment as a matter of law. To file an Answer, Respondent must file the original written Answer and one copy with the Regional Hearing Clerk at the

address specified in paragraph 37, above, and must serve copies of the written Answer on the other parties.

41. If Respondent chooses to file a written Answer to the Complaint, it must do so within 30 calendar days after receiving the complaint. In counting the 30-day time period, the date of receipt is not counted, but Saturdays, Sundays, and federal legal holidays are counted. If the 30-day time period expires on a Saturday, Sunday, or federal legal holiday, the time period extends to the next business day.
42. Respondent's written Answer must clearly and directly admit, deny, or explain each of the factual allegations in the Complaint; or must state clearly that Respondent has no knowledge of a particular factual allegation. Where Respondent states that it has no knowledge of a particular factual allegation, the allegation is deemed denied.
43. Respondent's failure to admit, deny, or explain any material factual allegation in the Complaint constitutes an admission of the allegation.
44. Respondent's Answer must also state:
 - a. the circumstances or arguments which Respondent alleges constitute grounds of defense;
 - b. the facts that Respondent disputes;
 - c. the basis for opposing the proposed penalty; and
 - d. whether Respondent requests a hearing as discussed in paragraph 52 above.
45. If Respondent does not file a written Answer within 30 calendar days after receiving this Complaint the Presiding

Officer may issue a default order, after motion, under Section 22.17 of the Consolidated Rules. Default by Respondent constitutes an admission of all factual allegations in the Complaint and a waiver of the right to contest the factual allegations. Respondent must pay any penalty assessed in a default order without further proceedings 30 days after the order becomes the final order of the Administrator of U.S. EPA under Section 22.27(c) of the Consolidated Rules.

Settlement Conference

46. Whether or not Respondent requests a hearing, Respondent may request an informal settlement conference to discuss the facts of this proceeding and to arrive at a settlement. To request an informal settlement conference, Respondent may contact Joseph Williams at the address or phone number specified in paragraph 38, above.
47. Respondent's request for an informal settlement conference does not extend the 30 calendar day period for filing a written Answer to this Complaint. Respondent may pursue simultaneously the informal settlement conference and the adjudicatory hearing process. U.S. EPA encourages all parties facing civil penalties to pursue settlement through an informal conference. U.S. EPA, however, will not reduce the penalty simply because the parties hold an informal settlement conference.

Continuing Obligation to Comply

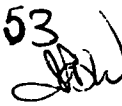
48. Neither the assessment nor payment of a civil penalty will affect Respondent's continuing obligation to comply with the Act and any other applicable federal, state, or local law.

9/27/2005
Date



Stephen Rothblatt, Director
Air and Radiation Division
U.S. Environmental Protection
Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

CAA-05-2005 0053



In the Matter of GNW Aluminum, Inc.
Docket No.

CAA-05- 2005

0053


CERTIFICATE OF SERVICE

I, Loretta Shaffer, certify that I hand delivered the original and one copy of the Administrative Complaint, to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, and that I mailed correct copies of the Administrative Complaint, copies the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits" at 40 C.F.R. Part 22, and copies of the penalty policy described in the Administrative Complaint by first-class, postage prepaid, certified mail, return receipt requested, to the Respondent and Respondent's Counsel by placing them in the custody of the United States Postal Service addressed as follows:

Gary Hoopes, President
GNW Aluminum, Inc.
1356 Harrisburg Road
P.O. Box 2418
Alliance, Ohio 44601

RECEIVED
REGIONAL HEARING
CLERK
SEP 28 10:33
U.S. ENVIRONMENTAL
PROTECTION AGENCY
REGION 5

on the 28th day of September, 2005.


Loretta Shaffer
AECAS (MN/OH)

CERTIFIED MAIL RECEIPT NUMBER: 7001 0320 0005 9025 6602